

# REPORT TO COUNCIL



**Date:** April 26<sup>th</sup>, 2021

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** A20-0004 / FH20-0004      **Owner:** 1035617 BC Ltd., Inc. No. 1035617

**Address:** 3201 Pooley Road      **Applicant:** Carl Withler

**Subject:** Application to the ALC for Non-Adhering Residential Use Permit for Temporary Farm Worker Housing

**Existing OCP Designation:** REP – Resource Protection

**Existing Zone:** A1 – Agriculture 1

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## 1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A20-0004 for Lot 3 Section 10 Township 26 ODYD Plan 790 located at 3201 Pooley Road, Kelowna, BC, for a Non-Adhering Residential Use Permit pursuant to Section 25 of the Agricultural Land Commission Act, be supported by Council;

AND THAT the Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration;

AND THAT Council authorizes the issuance of Temporary Farm Working Housing Permit No. FH20-0004 for Lot 3 Section 10 Township 26 ODYD Plan 790 located at 3201 Pooley Road, Kelowna, BC subject to the following:

1. Approval by the Agricultural Land Commission of Non-Adhering Residential Use Permit Application A20-0004;
2. The dimensions and siting of the building to be constructed on the land in accordance with Schedule A;
3. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule B;
4. A vegetated buffer is provided for screening adjacent property lines and between the temporary farm worker housing and active farming areas in accordance with Schedule C;

5. The applicant is required to post the City a Landscape Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscape buffer, as determined by a professional landscaper;
6. Registration of a Section 219 Restrictive Covenant on the Title that states:
  - a. The dwellings will be used for temporary farm workers only;
  - b. The owner will remove the dwellings if the farm operation changes such that if they are not longer required;
  - c. The dwellings will only be used for farm workers for a maximum of ten (10) months of the year;
  - d. The maximum number of accommodations permitted on this farm unit within this City sector is 60 workers: and,
  - e. The temporary farm worker housing building footprint is a maximum of 0.3ha.

AND FURTHER THAT this Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

## **2.0 Purpose**

To consider an application to the Agricultural Land Commission for a Non-Adhering Residential Use Permit application to allow Temporary Farm Worker Housing to accommodate 60 seasonal farm workers on the subject property.

## **3.0 Development Planning**

Staff support the application for Temporary Farm Worker Housing (TFWH) for up to 60 seasonal agricultural workers on the subject property. The proposed farm worker accommodation meets the regulations of the Zoning Bylaw. The proposal is also consistent with the Ministry of Agriculture standards for temporary farm worker accommodation.

The proposed application complies with the City of Kelowna Official Community Plan (OCP) policies of TFWH requirements. Agriculture is the principal use on the parcel. The applicant has demonstrated that the scale of farm operations is large enough and necessary to accommodate farm employees whose residence on the farm property is considered critical to the overall operation of the farm. The proposed housing will be on non-permanent foundations which is the preferred solution where the need for farm worker housing is justified and is in an area of the property that minimizes the residential impact to agriculture.

## **4.0 Proposal**

### **4.1 Background**

In 2019, a Farm Development Permit (DP19-0186) was approved for the subject property, which allowed the construction of a new agricultural accessory building to be used for cold storage, fruit processing and packing facility with office space on the subject property. The building subsequently received a Building Permit (BP62264) to allow for the construction, which met all regulations and bylaws. This two-storey packing facility is 5,934.8m<sup>2</sup> in size, including office space. The need for this facility was because the applicant and applicant's family own and lease several agricultural properties, mostly within the South Okanagan, where they grow apples, cherries, peaches, nectarines, and grapes. The applicant has a total of 883 acres of active farmland throughout the Okanagan.

#### 4.2 Project Description

The subject property is 20.26 acres (8.2ha) property. The property is located on the corner of Pooley Road and Rose Road, within the Southeast Kelowna OCP Sector. The property used to be an apple orchard; however, these were removed with the development of a new packing facility. The applicant has replanted the remaining land with cherry trees. There are no other dwellings on the property and there is currently two accesses off Rose Road, and this application would ask for a third access onto Pooley Road.

The applicant is seeking approvals to accommodate 60 seasonal workers on the property. The workers will help with packing cherries in the packing facility and work on orchards throughout Kelowna. They will be transferred to other farms with a farm vehicle. There are 16 total units proposed (9 sleeper, 2 washroom, 2 recreational, 2 kitchens, and 1 laundry), for a total floor area of 1913.6m<sup>2</sup>. The total area of infrastructure will be approximately 2,700m<sup>2</sup> (0.27ha) in size, which does not exceed the maximum allowable 0.3ha footprint. The applicant is proposing to provide each worker with their own room and bed, which is different than a shared space or bunk houses that are typically provided as part of the Seasonal Agricultural Workers Program (SAWP).

#### 4.3 Site Context

The subject property is located on the corner of Rose Road and Pooley Road in Southeast Kelowna. The parcel is accessed from Rose Road, but the application proposes an additional access of Pooley Road. The property is zoned A1 – Agriculture 1 and is designated Resource Protection Area (REP) in the City's Official Community Plan (OCP). The property is located within the Agricultural Land Reserve (ALR).

#### **Subject Property Map: 3201 Pooley Road**



## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

*Objective 5.33* Protect and enhance local agriculture.

*Policy 5.33.1* Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

*Objective 5.34* Preserve productive agricultural land

*Policy 5.34.2* Farm Help Housing. Accommodation for farm help on the same agricultural parcel will be considered only where:

- Agriculture is the principal use on the parcel; and
- The applicant demonstrates that the additional housing is necessary to accommodate farm employee(s) whose residence on the farm property is considered critical to the overall operation of the farm. The primary consideration is whether the scale of the farm operation is large enough that permanent help is deemed necessary.
- TFWH (e.g. bunkhouse accommodation on non-permanent foundations) is the preferred solution where the need for farm worker housing is justified.

### Chapter 15 – Farm Protection Development Permit Guidelines

Design TFWH such that:

- TFWH should use all existing dwellings within the farm unit, prior to building new TFWH, unless the existing dwellings are used for a use consistent with the Agriculture Land Commission Act. Alternatively, the existing dwellings on the farm unit must be removed, decommissioned to an approved use, or demolished including decommissioning the existing septic system, prior to the authorization of a new TFWH structure.
- TFWH footprint should be contiguous with the residential footprint (i.e. homeplate) and / or within 50 metres of the road and/or located to maximize agricultural potential and limit negative impacts on the farm parcel.
- TFWH should have a minimum 3-metre-wide vegetated buffer for screening to adjacent property lines and between the TFWH and active farming areas.

### City of Kelowna Agriculture Plan

Allow TFWH, as permitted by City of Kelowna bylaw. TFWH, as permitted by the City of Kelowna, should be allowed. The TFWH footprint means the portion of a lot that includes all structures, driveways and parking areas associated with the TFWH, including but not limited to structures for cooking, sanitary, living and sleeping. The footprint does not include the vegetated buffer.

## **6.0 Technical Comments**

### **6.1 Development Engineering Department**

6.1.1 See Attachment B, Development Engineering Memorandum

## **7.0 Application Chronology**

Date of Application Received: November 11<sup>th</sup>, 2020

Date Public Consultation Completed: March 24<sup>th</sup>, 2021

Agricultural Advisory Committee: March 11<sup>th</sup>, 2021

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on March 11<sup>th</sup>, 2020 and the following recommendations were passed:

THAT the Agricultural Advisory Committee recommends to Council to support a non-adhering residential use permit to allow Temporary Farm Working Housing to accommodate 60 seasonal workers on the subject property.

Anecdotal comments from the Agricultural Advisory Committee (AAC) are that they support the application and want to ensure the migrant workers feel welcome and part of the community. They expressed the idea that additional event should be considered by the City and the community to celebrate migrant worker culture. The Committee also recognized that the applicant has worked towards providing separate rooms for each worker in the midst of the pandemic. Finally, the Committee expressed concerns regarding isolation of workers from the rest of the community and the impact on worker mental health. They encouraged the applicant to integrate workers into the community whenever possible.

**Report prepared by:** Tyler Caswell, Planner I

**Reviewed by:** Dean Strachan, Community Planning & Development Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

### **Attachments:**

Schedule A: Site Plan / Floor Plan

Schedule B: Elevation Drawings

Schedule C: Landscape Plan

Attachment A: ALC Non-Adhering Residential Use Application

Attachment B: Development Engineering Memorandum

Attachment C: Applicant's Rationale

Attachment D: External Agency Comments (Interior Health & Ministry of Agriculture)

Attachment E: Draft Temporary Farm Working Housing Permit (FH20-0004)